

Assembly Bill No. 291

CHAPTER 569

An act to amend Section 25299.43 of the Health and Safety Code, relating to underground storage tanks.

[Approved by Governor October 8, 2011. Filed with
Secretary of State October 8, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 291, Wieckowski. Underground storage tanks: petroleum: charges.

Under the existing Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989, which is repealed on January 1, 2016, every owner of an underground storage tank is required to pay a storage fee for each gallon of petroleum placed in the tank. The fees are required to be deposited in the Underground Storage Tank Cleanup Fund and the board is authorized to expend the moneys in the fund, upon appropriation by the Legislature, for various purposes, including the payment of claims to aid owners and operators of petroleum underground storage tanks who take corrective action to clean up unauthorized releases from those tanks, corrective actions undertaken by the board, a California regional water quality control board, or a local agency, the cleanup and oversight of unauthorized releases at abandoned tank sites, and grants to small businesses to retrofit certain hazardous substance underground storage tanks.

Existing law provides for an increase in the fee at a rate of \$0.006 per gallon of petroleum between January 1, 2010, and December 31, 2011, and terminates that increase on January 1, 2012.

This bill would continue the requirement to pay that increased amount of \$0.006 per gallon until January 1, 2014. By operation of existing law, the revenue resulting from the increased fee would be required to be deposited in the fund and be available, upon appropriation, for expenditure for the purposes authorized under existing law for money in the fund. This bill would constitute a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

The bill would only become operative if AB 358 is enacted and becomes effective on or before January 1, 2012.

The people of the State of California do enact as follows:

SECTION 1. Section 25299.43 of the Health and Safety Code is amended to read:

25299.43. (a) To implement the changes to this chapter made by Chapter 1191 of the Statutes of 1994, and consistent with Section 25299.40, effective January 1, 1995, every owner subject to Section 25299.41 shall pay a storage fee of one mill (\$.001) for each gallon of petroleum placed in an underground storage tank that the person owns, in addition to the fee required by Section 25299.41.

(b) On and after January 1, 1996, the storage fee imposed under subdivision (a) shall be increased by two mills (\$.002) for each gallon of petroleum placed in an underground storage tank.

(c) On and after January 1, 1997, the storage fee increased under subdivision (b) shall be increased by an additional three mills (\$.003) for each gallon of petroleum placed in an underground storage tank.

(d) On and after January 1, 2005, the storage fee increased under subdivision (c) shall be increased by an additional one mill (\$.001) for each gallon of petroleum placed in an underground storage tank.

(e) On and after January 1, 2006, the storage fee increased under subdivision (d) shall be increased by an additional one mill (\$.001) for each gallon of petroleum placed in an underground storage tank.

(f) On and after January 1, 2010, the storage fee increased under subdivision (e) shall be increased by an additional six mills (\$.006) for each gallon of petroleum placed in an underground storage tank. The increase provided for in this subdivision shall be effective until January 1, 2014, at which time, the fee shall revert back to the fee pursuant to subdivision (e).

(g) The fee imposed under this section shall be paid to the State Board of Equalization under Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code in the same manner as, and consistent with, the fees imposed under Section 24299.41.

(h) The State Board of Equalization shall amend the regulations adopted under Section 25299.41 to carry out this section.

SEC. 2. This act shall only become operative if Assembly Bill 358 is enacted and becomes effective on or before January 1, 2012.